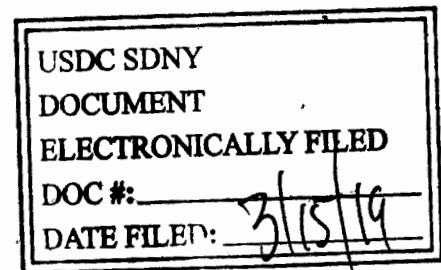


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re PLATINUM-BEECHWOOD LITIGATION :	:	18-cv-6658 (JSR)
-----	x	
MARTIN TROTT and CHRISTOPHER SMITH, :	:	
as Joint Official Liquidators and :	:	
Foreign Representatives of PLATINUM :	:	
PARTNERS VALUE ARBITRAGE FUND L.P. :	:	18-cv-10936 (JSR)
(in Official Liquidation), and :	:	
PLATINUM PARTNERS VALUE ARBITRAGE :	:	<u>ORDER</u>
FUND L.P. (in Official :	:	
Liquidation), :	:	
Plaintiffs, :	:	
-v- :	:	
PLATINUM MANAGEMENT (NY) LLC, et :	:	
al., :	:	
Defendants. :	:	
-----	x	



JED S. RAKOFF, U.S.D.J.

On November 21, 2018, plaintiffs Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) ("PPVA"), and PPVA filed a multi-count complaint against a bevy of defendants. ECF No. 1. On December 19, 2018, this Court held an initial conference at which it invited defendants to file an initial round of motions to dismiss. ECF No. 64, at 18:11-18. The Court stated that any defendant was permitted to join or file a motion in the initial round, but that no defendant who waited would be prejudiced from bringing a later motion as part of a second round. Id.

On January 25, 2019, plaintiffs filed their First Amended Complaint ("FAC"), ECF No. 159, and now before the Court are the motions to dismiss of the following defendants: (1) Beechwood Capital Group LLC, B Asset Manager II LP, BBLN-PEDCO Corp., and BHLN-PEDCO Corp., ECF No. 199; (2) Beechwood Trust Nos. 7-14, ECF No. 187; (3) Bernard Fuchs, ECF No. 224; (4) David Bodner, ECF No. 182; (5) Daniel Saks, ECF No. 192; (6) The Estate of Jules Nordlicht, FCBA Trust, Morris Fuchs, Barbara Nordlicht, Aaron Parnes, Sarah Parnes, Shmuel Fuchs Foundation, and Solomon Werdiger, ECF No. 214; (7) The Estate of Uri Landesman, ECF No. 206; (8) GRD Estates Ltd., ECF No. 184; (9) Murray Huberfeld, ECF No. 172; (10) David Levy, ECF No. 217; (11) Meadows Capital LLC, ECF No. 253; (12) Leon Meyers, ECF No. 175; (13) Michael Nordlicht and Kevin Cassidy, ECF No. 194; (14) David Ottensoser, ECF No. 209; (15) Platinum FI Group, LLC, ECF No. 180; and (16) Rockwell Fulton Capital L.P. and Ditmas Park Capital L.P., ECF No. 208.¹ Plaintiffs oppose. ECF Nos. 223, 270.

¹ Defendants Twosons Corporation and Huberfeld Family Foundation also filed motions, ECF Nos. 201, 203, but these motions have been withdrawn. Defendant David Steinberg filed a motion, ECF No. 196, but plaintiffs have since voluntarily dismissed the action against Steinberg, ECF No. 274. In addition, defendants Joseph SanFilippo and Abraham C. Grossman belatedly joined the motions of other defendants, ECF Nos. 259, 261, and plaintiffs have not had an opportunity to respond. Accordingly, the Court will wait to rule on SanFilippo and Grossman's motions until it rules on the second round of motions to dismiss.

After receiving full briefing from all parties, the Court held oral argument on March 6 and 7, 2019. Upon consideration, the Court hereby grants defendants' motions in the following respects:

- The Estate of Jules Nordlicht, FCBA Trust, Morris Fuchs, Barbara Nordlicht, Aaron Parnes, Sarah Parnes, Shmuel Fuchs Foundation, Solomon Werdiger, GRD Estates Ltd., Meadows Capital LLC, Leon Meyers, Platinum FI Group, LLC, Rockwell Fulton Capital L.P., and Ditmas Park Capital L.P.: Only the Ninth Count of the FAC (aiding and abetting breach of fiduciary duties) and the Tenth Count (aiding and abetting fraud) are dismissed.
- Beechwood Capital Group LLC: All claims are dismissed.
- BBLN-PEDCO Corp.: All claims are dismissed.
- BHLN-PEDCO Corp.: All claims are dismissed.
- Beechwood Trust Nos. 7-14: All claims are dismissed.
- David Bodner: Only the Fourteenth Count (unjust enrichment) is dismissed.
- Daniel Saks: Only the Fourteenth Count (unjust enrichment) is dismissed.

- Murray Huberfeld: Only the Fourteenth Count (unjust enrichment) is dismissed.
- David Ottensoser: Only the Fourteenth Count (unjust enrichment) is dismissed.

The Court denies defendants' motions in all other respects. The motions of those defendants not mentioned above (B Asset Manager II LP, Bernard Fuchs, David Levy, Kevin Cassidy, Michael Nordlicht, and The Estate of Uri Landesman) are denied in their entirety. An opinion explaining the Court's ruling will issue in due course.

As a final matter, the Court has yet to address the discovery obligations of defendants in this case who are also standing trial, or are set to stand trial, in a related criminal matter in the Eastern District of New York. The Court has decided that these defendants will not be excused from document production in this case, but they will otherwise be excused from all discovery obligations until the completion of their trial. The deadline for these defendants to answer or move to dismiss (if they have not done so already) is likewise extended until two weeks following the completion of their trial.

For all other defendants, any further motions to dismiss must be filed - like the motions decided in the instant Order - as part of a single round. All interested parties are directed

to convene a joint conference call to chambers to set a briefing schedule on this second round of motions.

The Clerk is directed to close the entries at docket numbers 172, 175, 180, 182, 184, 187, 192, 194, 199, 206, 209, 214, and 253.

SO ORDERED.

Dated: New York, NY
March 15, 2019


JED S. RAKOFF, U.S.D.J.